

**ORAL ARGUMENT NOT YET SCHEDULED****IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA**

AMERICAN CHEMISTRY COUNCIL	)	
	)	
<i>Petitioner,</i>	)	
	)	
v.	)	No. 24-1271
	)	(consolidated with 24-1193)
ENVIRONMENTAL PROTECTION	)	
AGENCY AND MICHAEL S. REGAN,	)	
IN HIS OFFICIAL CAPACITY AS	)	
ADMINISTRATOR, UNITED STATES	)	
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
<i>Respondents.</i>	)	
	)	

**PETITIONER AMERICAN CHEMISTRY COUNCIL’S  
NON-BINDING STATEMENT OF ISSUES**

Petitioner American Chemistry Council (“Petitioner”) hereby submits this Nonbinding Statement of Issues with respect to its Petition for Review of the U.S. Environmental Protection Agency’s (“EPA’s”) final rule entitled “Designation of Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) as CERCLA Hazardous Substances,” 89 Fed. Reg. 39,124 (May 8, 2024) (“Final Rule”).

1. Whether EPA failed to provide adequate notice and opportunity to comment prior to promulgating the Final Rule.
2. Whether EPA must consider costs before designating a substance as hazardous under CERCLA section 102(a), 42 U.S.C. § 9602(a), and whether EPA appropriately considered costs in promulgating the Final Rule.
3. Whether EPA erroneously interpreted CERCLA when designating PFOA and PFOS as hazardous substances.
4. Whether EPA provided an adequate and reasonable explanation for its conclusion that PFOA and PFOS should be designated as hazardous substances.
5. Whether EPA acted arbitrarily, capriciously, or in a manner otherwise contrary to law in promulgating the Final Rule.
6. Whether EPA violated the United States Constitution by, for example, imposing retroactive liability through the Final Rule.

This is a preliminary listing of issues that Petitioner may raise. Petitioner reserves its right to modify this statement of issues, as well as to raise these and other issues.

Dated: September 3, 2024

Respectfully submitted,

/s/ Elbert Lin

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 3, 2024, I caused a true and correct copy of the foregoing document to be filed via the Court's electronic-filing system, which will send electronic notification of such filing to all counsel of record in this action.

Dated: September 3, 2024

/s/ Elbert Lin

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